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Story of the Menace trial

Aurora, Mo.

1916

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Story of The Menace Trial

A Brief Sketch of this Historic Case With Reports of the Masterly Addresses by

Hon. J. L. McNatt

---and---

Hon. J. I. Sheppard

Attorneys for the Defense

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Box 33

COMPILED BY B. O. FLOWER,
President Free Press Defense League

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STORY OF THE MENACE TRIAL

Jan 25 - 9 Aug - 16

The vindication of THE MENACE was the first distinct victory won by the friends of our free institutions, in the mighty conflict being waged by the Roman Catholic hierarchy, for the purpose of substituting the papal theory of government for the free democracy of our republic. It was a victory of great significance and interest to all present day patriots, and will take its place with other historic cases in the people's warfare throughout the ages in defense of their vital freedom from the assaults of despotic rulers, hierarchies and privilege-seeking classes.

AURORA, MO.
UNITED STATES PUBLISHING CO.
1916.

Preface

There have been many critical hours in the history of this Republic, but not until recent years has there been a nation-wide organized and systematic attempt to replace the magnificent free democracy of our fathers by a system that in history, theory and practice has consistently opposed all the distinguishing glories of our free Republic—popular sovereignty, freedom of religion, thought, speech, press and assembly, divorce of church and state and popular secular education.

The present peril is doubly dangerous because it is advancing under false pretenses claiming that it does not represent a hierarchical power that condemns popular sovereignty, freedom of thought and utterance, divorce of church and state, and our public free school system, in the face of the fact that the last three popes, the only authoritative and to the subjects of the papal system, infallible mouthpieces of the hierarchy, have gone on record in condemnation of all these things.

No one can read the encyclicals or *ex cathedra* and therefore, to all Catholics, infallible and binding declarations of Pope Pius IX, Leo XIII, and Pius X, in regard to all these things, without recognizing that this war is between

two irreconcilable theories of government. It is a war for the very life of the democracy of the fathers and those great bulwarks of free institutions against which Rome has waged a ceaseless war since the days when she began her merciless extinction of the God-fearing Albigenses in the twelfth century, to the present hour; a war in which the same intolerance and implacable hate have often times been evinced as marked the struggle between ancient Rome and Carthage.

The Story of The Menace Trial

By B. O. FLOWER, President Free Press Defense League.

The prosecution of THE MENACE which opened on Tuesday, January the 11th 1916, in the Federal Court room in Joplin, Missouri, was an event that will loom large in the perspective of history, for it was the great opening battle in the mighty irrepressible conflict between two world theories of government that, being mutually exclusive can not exist together.

There had been several sharp scrimmages between the upholders of the democratic theory of government and the organized upholders of the papal theory in recent years, since the Romanists set out to make America dominantly Roman Catholic. But not since the Knights of Columbus and the American Federation of Catholic Societies began their attacks on freedom of speech and press has any battle been waged that is comparable to this determined attempt to crush THE MENACE.

THE STAGE AND THE BACKGROUND

Joplin, Missouri, is a small western city of about forty thousand souls. Heretofore, it has chiefly been famous as a great zinc and lead mining center, henceforth it will have another claim to immortality. From January 11th, 1916.

Joplin will be known to history as Alton, Ill., and Harper's Ferry are known in the chronicles of our nation.

History takes note of crucial events. Little else appears upon her negatives. What makes Marathon forever glorious in the world's annals? What gives enduring interest to Salamis, to Thermopylæ, to Runnymede, to Independence Hall or to The Alamo? All these places would have been forgotten, or innocent of interest, had it not been for events of historic importance, the overthrow of the Oriental hordes, the heroic defense of the Spartan band, the signing of the Magna Charta, the promulgation of the Declaration of Independence, the unforgettable heroism of the little band who had no messenger of defeat—such deeds of daring, marking crucial moments in the annals of nations or the history of civilization, make indelible impress upon the ages. These are dear to history; so Joplin henceforth will live in story.

THE HAND OF ESAU BUT THE VOICE OF JACOB

Who was the prosecutor of THE MENACE, and what was the true animus behind that prosecution?

Outward and seemingly it was the United States government, but inwardly and truly it was politico-ecclesiastical Romanism; and behind the United States government were the tax payers of America, who must bear the burden of this, and other costly prosecutions that have been brought about recently at the instigation of the clericals who are striving to substitute the papal for the democratic system of government.

Only because *Rome is in politics,* only because she is organized and can act as a unit, is it possible for such shameful burdens to be imposed upon the eighty-five million non-Roman Catholics of America, by the less than fifteen million Romanists in the effort to further abridge the liberty of the

press and to check freedom of religious discussion through employing technicalities that are in effect a shameful abuse of the obscenity statutes.

On more than one occasion, at the annual meeting of the American Federation of Catholic Societies resolutions have been passed demanding legislation that would *abridge the right of religious discussion.* For years the Roman Catholics in their press, in public meetings, and through their organizations, have been carrying on an aggressive warfare to destroy THE MENACE. The prosecution at Joplin was merely one of the multitudinous efforts of politico-ecclesiastical Romanism to destroy the most formidable organ arrayed against the un-American aggression of Political Romanism.

ABUSE OF THE OBSCENITY STATUTES

The so-called obscenity statutes were passed by our law makers for the purpose of preventing the publication and dissemination of palpably obscene, lewd and corrupt matter that was being circulated with the manifest purpose of debasing the morals of the people. Many far sighted friends of freedom and statesmen of breadth of vision and knowledge of history, opposed the legislation as framed, on the ground that it was too loosely drawn and would be liable to be employed as an instrument of persecution against noble minded men and women who were striving to correct abuses and expose moral and debasing conditions. It was pointed out that *great interests that might be fattening upon corrupt practices, or organizations that might be engaged in evil practices which feared the light of day, might easily seize upon these statutes to prevent the public from being acquainted*

with the evil facts that canker-like, were eating into the body politic.

The prosecution of THE MENACE afforded a striking verification of the predictions of the wise and noble minded statesmen and moralists, who feared that the proposed legislation would be thus made *an instrument of persecution for the shielding of those who feared the light.*

Clearly in all cases of this kind, if the ends of justice and morality are to be conserved by the courts, (and what other legitimate functions have the courts in such cases?) Certain elements should be taken into consideration, as, for example: the intent of the lawmakers who frame the statutes; the character of the defendants; the palpable aim and object of the publishers; the general moral tone and character of the publication, and especially the character and obvious influence on the mind of the general reader of the article or publication against which the charge is brought.

If stern moralists, whose passion is to purify and ennoble society, are to be made amenable to the statutes for exposing conditions of white slavery, for instance, for attempting to protect the defenseless from the moral lepers of society; if high-minded Christian men whose only aim is to conserve morality and preserve free institutions can be prosecuted for exposing moral iniquity and evil and un-American conditions, *then vice, immorality and obscenity will flourish as the bay tree, by virtue of such abuses of the Statutes intended to remedy the evil conditions.*

To wrest a few words, sentences or paragraphs from their context and refuse to permit a jury to consider the discussion of the whole, and to refuse to permit the accused to prove the truth of the charges made to establish the intent, purpose and necessity for their publication clearly is not only

to do violence to the aims of the legislation, but it is to establish conditions that foster, bulwark and render impregnable the very evils the laws aim to check.

In the course of his opening address, the senior counsel for the defense, thus contrasted the real intent of the framers of the obscenity statutes with the present attempt to destroy a great and sternly moral publication which had become a deadly menace to a hierarchy that dare not face the light of truth or encourage investigations into its teachings and practices. Said Mr. Sheppard:

> "If your honor please, what I would like to get plain is this: You have tried, and I have tried, and the district attorney has tried, cases like we saw here this morning—foul letters sent through the mails to honest, decent women and young girls, and of course that is a vileness that no decent man could imagine for a minute being countenanced. But we are not to be tried under that rule, if your honor please. These defendants are legitimately engaged in publishing a newspaper that is devoted to attacking a great public wrong. In fact, a national evil. Under such circumstances the courts have said, and very recently, that the publisher has the right to speak plainly—'to use language that may be offensive to ears polite.' In the last case of this character tried, that of the Hon. Thomas E. Watson, the district court held that the jury had a right to determine from the publication itself, the good faith and purpose of the writer, provided he was attacking some great wrong. And this to determine whether the matter complained of is obscene."

Another important fact was clearly emphasized. It was shown that if such prosecutions and persecutions are tolerated by parity of reasoning the Bible, together with a vast number of the noblest works of genius born of our civilization, necessarily come under the meaning of these statutes and should,—nay, must be ruled out of the mails unless the

courts in deference to Political Romanism propose to make fish of one and fowl of another.

In the case of Anna Lowry it was a Roman Catholic who was instrumental in securing her arrest in Minnesota on the charge of uttering obscene language, when she had merely read the questions which the Roman Catholic saint Liguori prescribed for priests to put to maid and matron in the privacy of the confessional. In the case of Thomas E. Watson it was the American Federation of Catholic Societies, according to the boast of its secretary, which secured action against the distinguished southern editor for publishing Liguori's questions, though Mr. Watson took the precaution to publish them in Latin, just as they are published and sent through the mails by leading Roman Catholic publishing houses of America.

So it was leading Roman Catholics who instigated the prosecution and sought to crush THE MENACE by means of the obscenity statutes, because that journal did what decent journals must do if the purity of society is to be maintained, viz., expose what appear to be immoral and vice-breeding conditions.

NOT A QUESTION OF MORALS

The matter complained of is so palpably less open to objection on the grounds of obscenity than much of the uncriticized news matter appearing in the daily press of the land, that the pretext upon which the prosecution was based is too absurd to merit serious consideration. Moreover, the Roman Catholics are circulating through the mails, matter written by one, who during the last century was honored by the Roman Catholic church both by canonization and elevation to the degree of Doctor of Moral Theology, which the courts hold to be grossly obscene; and this vile and obscene

matter constitutes the questions which this greatest of Rome's moral theologians prescribed for bachelor priests to pour into the ears of innocent maids and matrons in the secrecy of the confessional.

Hence, it is perfectly clear that the obscenity statutes were invoked merely on a technicality in order that *without expense to the Roman Catholics, the American tax payers, over eighty-five per cent of whom are non-Roman Catholics, might be burdened in the organized effort of clerical Rome to interfere with freedom of religious discussion.*

WHAT ROME OBJECTS TO

What Rome objects to is the publicity given to facts connected with lives of priests and the moral teachings endorsed by the church which are in direct opposition to the moral standard of American society.

From what has been said it will appear that this trial was one so vital in its import to free institutions and to the continued upward sweep of our civilization, that every friend of fundamental democracy and of sound morality can not fail to rejoice at the outcome. Moreover, since it was the opening conflict in what is probably the greatest crisis in the history of free institutions, it is a story of overshadowing interests to present day patriots and to generations yet unborn.

To visualize the scene and fix the prominent figures in the readers mind, we will give a cast of the principal characters in this vital twentieth century drama.

LEADING CHARACTERS IN THE HISTORIC TRIAL

Hon. Arba S. Van Valkenburgh: U. S. District Judge who presided.

Francis M. Wilson: U. S. District Attorney.

S. O. Hargus: Assistant to the District Attorney.

J. I. Sheppard and J. L. McNatt: Attorneys for the defense.

Frank Dale, Sheldon, Mo.; H. G. Foster, Nevada, Mo.; J. C. Lane, Crane, Mo.; Ely Maupin, Lamar, Mo.; Dudley Biggs, Rocky Comfort, Mo.; J. C. Brown, Liberal, Mo.; J. W. Jennings, Oto, Mo.; C. A. Caldwell, Anderson, Mo.; U. L. Coleman, Marionville, Mo.; H .T. Maberry, Mt. Vernon, Mo.; J F. Hisey, Bronaugh, Mo., and Andy Flaxbeard, Rocky Comfort, Mo.: The twelve American citizens who acted as jurors in the case.

THE DEFENDANTS

Rev. Theodore C. Walker: Senior editor of THE MENACE.
Marvin Brown: Managing editor of THE MENACE.
Wilbur F. Phelps: Business manager of THE MENACE.
Bruce M. Phelps: Superintendent of the plant.

THREE STAR WITNESSES FOR THE PROSECUTION

Landry Harwood of Kansas City, Mo.: A leading official in the Knights of Columbus organization who furnished copies of THE MENACE to District Attorney for use in prosecution. Mr. Harwood admitted that as officer in the state organization of Knights he had authorized the publication for general circulation of Paul Bakewell's letter to the Washington authorities demanding action against THE MENACE.

Edward V. P. Schneiderhahn of St. Louis, Mo.: A leading officer of the St. Louis branch of American Federation of Catholic Societies, who testified that he had furnished Paul Bakewell copies of THE MENACE to be used in securing government action. He had conferred with Judge O'Neil Ryan, another leading Romanist, about action against THE MENACE.

Miss Nonie J. Wilson: Stenographer to Paul Bakewell, the prominent Knight of Columbus who boasted that he had secured government action against THE MENACE. She testified that she was a Roman Catholic and had secured for Mr. Bakewell, copies of Mr. Crowley's book.

TWO WITNESSES FOR THE DEFENSE

Jeremiah J. Crowley: A former priest in the Roman church and author of the book containing a quotation upon which one count of the indictment was found.

Prof. Walter Miller of Columbia, Mo.; Head of Latin department in the University of Missouri, who was present, to translate and

read from Liguori's and Gury's Moral Theology, to establish the contention of the defense that the obscene character of the teachings of these Roman Catholic authorities on moral theology must necessarily prove a demoralizing influence on the priesthood.

IN THE BACKGROUND ON THE SIDE OF THE PROSECUTION

Among those present not called to testify by the prosecution were Paul Bakewell and a number of prominent Knights of Columbus and other Romanists.

IN THE BACKGROUND FOR THE DEFENSE

The defense had ready and waiting to testify to the high standing and character of the defendants and to the fact that in their judgment THE MENACE was moral and not obscene or objectionable. The leading clergymen and business men of Aurora. The court, however, ruled that the character of the defendants and that of the publication was immaterial.

Time, January 11th to 14th, 1916.
Place, Joplin, Mo.

SIGNIFICANT CONTEMPORANEOUS EVENT

While the jury was deliberating on THE MENACE case, the Protestant women of Aurora, Mo., the home of the defendants, were holding prayer meetings in the churches, praying for the acquittal of the editors against whom the Roman Catholics had instigated this prosecution in the true historic spirit of that persecuting church. The night of the fourteenth when the news of the acquittal reached Aurora there was general rejoicing in the town. An immense crowd comprising more than half the population gathered at the depot, headed by the band and when the defendants stepped from the train they were royally welcomed.

THE JURY

The jury was chosen from a list of between forty-five and fifty men, drawn by the government officer from the entire judicial district. Each side, of course, had the privilege of making the number of challenges prescribed by the law. The men selected were as intelligent and thoughtful a group

of sturdy American citizens as one will find in months, either in city or country court rooms. They were men who realized the solemn duty devolving on them, and judging from their close and intelligent interest in everything relating to the evidence they were considering, were evidently determined to do their full duty as citizens of a great Republic dedicated to human rights and justice.

THE OPENING OF THE CASE

In the opening of the case for the prosecution and throughout the trial, Mr. Francis M. Wilson, the government attorney, resolutely maintained that the characters of the defendants and that of the publications, the truth of the charges, or the intent or purpose of the defendants in publishing the matter complained of must not be taken into consideration as it was all immaterial. On this point he said:

"It makes no difference whether the hand that penned each and every one of these articles which I have read to the jury, was a hand guided by hurtful or good purposes: that is not material. Upon the other hand, whether the motive is a good or a bad motive, whether the article is true or untrue, that is not an issue in this case."

Mr. Wilson insisted that the government did not contend that THE MENACE was an obscene paper or that Mr. Crowley's book was obscene, but he held that the *brief excerpts* which he read and the short articles given in the indictment came within the meaning of the law. His position had, indeed, been outlined the day previous in an interview published in the Joplin papers. In this interview as well as in the court room Mr. Wilson insisted that *Roman Catholics had not instigated the prosecution.* Taking this stand was one of the glaring blunders of the prosecution which gave Mr. Sheppard the opportunity to puncture the false claim, this he did to the queen's taste, when he showed that

of the millions of American citizens who weekly read THE MENACE the only persons the government had been able to introduce, as witnesses who had received the paper through the mails were prominent Roman Catholics, officers in the Knights of Columbus or in the other great politico-religious Roman body, The American Federation of Catholic Societies.

One of the most significant facts clearly established by the trial was the very thing the government did not wish the public to know. As has been indicated, Mr. Wilson tried vainly to cover up the trail of the serpent, but unhappily he was fatally handicapped as the only persons whom the government had been able to obtain complaints from among those receiving THE MENACE through the mails *were leading servitors of the papal sovereign on the Tiber.*

Here we found ourselves meeting

AN OLD FACE UNDER A NEW BONNET

Here was present the old spirit of the Roman Catholic Inquisition masquerading under new names and peering at us from a new bonnet. Here it was clearly shown that Knights of Columbus aided by a prominent officer of the American Federation of Catholic Societies instigated, aided and abetted the prosecution.

Mr. Wilson's heroic effort to create the impression that the government was not acting under the prodding of political Romanism was a pitiful failure. He overshot the mark, like the player queen in Hamlet he "protested too much," as the following extracts from the stenographic report of the trial clearly show (Mr. Landry Harwood, a leading wit-

ness for the prosecution, is being examined by Mr. J. I. Sheppard.)

THE HAND OF ROME REVEALED

Q. In addition to being a member of the Catholic church, are you also a member of the Knights of Columbus?

SENATOR WILSON: Wait a minute, if the court please. We object to that for the reason that there is no such issue presented in his case. It has no more relevancy whether he is a Knight of Columbus than it would have if I were upon the stand and testified that I was a Mason and a Knight Templar; and therefore it is not a proper subject of inquiry whether he is a Knight of Columbus—no more so than the fact that I am a Mason and Knight Templar.

THE COURT: From what has been stated here by counsel in their opening statements, and what is embodied in the exhibits and the charges, this witness testifying to the matter of having received this particular copy of the paper through the mails as a witness, and as bearing upon his relations to the case, this question will be indulged to a reasonable extent, merely to show his interest in the case, but not going into any special details.

A. The question was whether I am a member of the Knights of Columbus?

Q. Yes, sir.

A. I am.

Q. Do you hold any office in that organization in this state?

A. I do.

Q. What is it? A. I am State Deputy.

Q. That is organizer? A. *I am the head officer of the Knights of Columbus in the State of Missouri.*

Q. I hand you a booklet marked exhibit 209 and ask you if you are the Landry Harwood whose name appears on that as State Deputy?

A. I am.

Q. Was that booklet issued under your authorization or direction? A. Issued under my authorization, yes, sir. I don't know that I directed it. I knew that it was being issued.

Q. Was it circulated by you or under your direction?

A. Through the State Secretary, yes, sir.

Q. That is what I mean: under your direction. A. Yes, sir.

Q. Who prepared it for circulation?

SENATOR WILSON: If the court please, we think that after having shown his relationship as a member of the Knights of Columbus, and that he is a Roman Catholic, that hardly anything he may have prepared under his duties as a member of the Knights of Columbus, a member of that organization, would be competent for any purpose in this case, inasmuch as nothing that he may have done would in any wise be relevant in any other capacity.

THE COURT: I don't know but that this is a preliminary question. I have nothing yet to pass upon.

A. Do you mean, who wrote the article, or who had it printed?

Q. Under whose—you say it was prepared under your direction: who prepared it? A. You asked me whether I had it sent out.

Q. And I asked you if it was prepared under your authorization. A. I don't want to be technical, Mr. Sheppard. I didn't have this written or ask or direct that it be written or have it prepared for circulation.

Q. What I want to get at is to find out just by whom it was prepared and what part you took in it. A. You mean as to what part I had in having Mr. Bakewell circulate this letter?

Q. But who put it in this form to circulate among the people. A. I think the pamphlet, entitled, "Paul Bakewell's Letter to Postmaster-General Albert S. Burleson" states on the cover that it was issued under the auspices of the Lakeport Bureau of the Missouri State Council of the Knights of Columbus, under the Lakeport Bureau.

SENATOR WILSON: I am going to object to that for another reason, and that is that counsel is asking the witness to detail the contents of a book or open letter addressed to the postmaster-general of the United States, alleged to have been written by Mr. Paul Bakewell, who is here in this court room as a witness and able to testify if it be proper at all as to its contents. Now the contents of such a book or what may be in the book, the government holds to be irrelevant to this issue.

THE COURT: He has been asking now what part he had in preparing this pamphlet for use. Up to date there has been no call for any word as to what it contains nor by whom written or anything about it.

SENATOR WILSON: We have no objection to his merely stating his connection with it.

A. (Continuing) After the letter had been sent, or copies of it had been printed, it was called to my attention by some officer of the order of the Knights of Columbus in the city of St. Louis, just whom I cannot recall, with the suggestion that it was advisable to have copies of this printed and circulated. I agreed and that was done. It was printed, my recollection is, in the city of St. Louis—I am quite certain that is a fact—and sent out from the State Secretary's office, John T. Nugent of the city of St. Louis.

Q. That letter that you have referred to there had been first sent to the postmaster-general, Mr. Burleson? A. So my information is.

Q. And then you concluded it was advisable and you were so advised by other members of that organization that it would be a good idea to publish this letter and circulate it? A. That is correct.

Q. For the purpose of coercing the government into indicting these men?

SENATOR WILSON: I object to that. There is no coercion in that—

A. (Interrupting) Most certainly not.

SENATOR WILSON: I object to it for the reason that it is a highly improper question. There is no coercion,—

THE COURT: The witness has answered.

Q. The letter was complaining of THE MENACE generally, not any particular article in THE MENACE, and about the book that I hold in my hand. A. The letter, as I interpret it, Mr. Sheppard, is a consideration of the law involving—

SENATOR WILSON: Just a minute—

MR. SHEPPARD: Just answer what, if anything it dealt with.

A. (Continuing) It dealt with the law in regard to the mails, affording mail facilities to publications such as described in the letter.

Q. Now, but you haven't answered my question. Doesn't it refer to THE MENACE newspaper alone and to this book, to this book also in particular? A. It has in there statements about THE MENACE and sections of the criminal code and decisions of the United States courts involving mail facilities.

Q. Calling on the postmaster-general to exclude THE MENACE from the mails? Doesn't it request that that be done?

(No answer)

Q. And requesting him if he had no authority to do that, to submit the book that he sent along, and the copy of THE MENACE to the attorney-general of the United States for action by the Department of Justice, if possible.

SENATOR WILSON: We object to all of that.

THE COURT: I understand—

A. (Interrupting). He requests that this matter be called to the attention of the Attorney General of the United States who may see to it that the publication of THE MENACE and the book——

A. (Interrupting) That he initialed for identification, and sent? A. My recollection is that is in here. I just turned to it right now.

Q. And that he had proof that it was sent through the mails?

A. Yes, sir.

Q. You were here before the grand jury at the time this indictment was returned? A. I was.

Q. You subscribed, did you not, to THE MENACE for the purpose of watching its columns to— A. (Interrupting) The publication was called to my attention by Mr. Frank Cummings of Joplin. Mr. Cummings said that he would have the paper sent to me, and he did.

Q. And you watched it and read it for the purpose of finding something upon which to base an indictment or something upon which you could complain to the government and get it excluded from the mails? A. That is correct in general, yes, sir.

Q. What was the name of the man you said subscribed for the paper for you, some Joplin man? A. Frank Cummings.

Q. Is he also a Knight of Columbus and a Catholic? A. Yes, sir.

FURTHER PROOF THAT ROME INSTIGATED THE PROSECUTION

Mr. Landry Harwood, the head of the Knights of Columbus of Missouri, was followed on the stand by Mr. Edward V. P. Schneiderhahn, who stated that he was an officer in the St. Louis branch of the American Federation of Catholic Societies. This star witness for the prosecution testified under the questioning of Mr. Sheppard as follows:

Q. What did you do, Mr. Schneiderhahn, with the paper that government counsel has passed you and identified as having been received by you through the mails, after you got it?

A. I constructed a file, Mr. Sheppard, when the papers, THE MENACE copies, began coming to me. That was in April, in the beginning of April of 1914. I laid them by for reference.

Q. What did you finally do with it. Anyone call for it finally? A. The persons that I recall coming to see me with reference to THE MENACE were Judge O'Neil Ryan and Mr. Bakewell.

Q. Who is he? A. Judge O'Neil Ryan is an attorney in the city of St. Louis.

Q. A Roman Catholic. A. Yes, sir.

Q. A Knight of Columbus? A. That I don't know. Mr. Bakewell—

Q. (Interrupting) Who is he? A. He is an attorney. He is present here.

Q. He is present here? A. Yes, sir.

Q. A Knight of Columbus? A. I do not know.

Q. And these gentlemen are they members of this society, that is the Federation of Catholic Societies, that you spoke of?

A. I don't know because I do not know the names of all the societies. There are about—well, between seventy and eighty; they may fluctuate, but they are not all of the city of St. Louis; about that many that are affiliated with the Federation.

Q. Let me ask you: did you finally turn this paper over to Judge O'Neil Ryan and Mr. Bakewell? A. I am not sure about the identical copies I turned over. I turned over a number of copies to the postoffice inspector, but I don't remember how many; I think there were about ten in January, this last past January, 1915.

Q. You turned them over to the inspector after being interviewed by Mr. Bakewell and Mr. Ryan? A. I don't know who was the gentleman, because I am not clear as to the conversation with Judge O'Neil Ryan, but it was sometime after that.

Q. That is what I say. A. Yes, sir.

Q. It was after that you turned them over to the Inspector? A. Oh, yes.

Q. Did he tell you he had been referred to you by Mr. Bakewell and Mr. Ryan? A. I don't remember his conversation, Mr. Sheppard. He said to me that he had learned that I had a file, and

asked for certain papers, and I had the file there, I had it only for reference, and I give him the papers.

Q. When Ryan and Bakewell were with you did you go over the file, you three lawyers? A. There were particular copies that Mr. O'Neil Ryan wanted to see, but I don't remember which, Mr. Sheppard.

Q. At the time you and Mr. Bakewell and Mr Ryan, you three lawyers, conferred about these papers, did you read them or some of them? A. No, Mr. Sheppard, it is not correct that we three conferred. I saw separately Judge O'Neil Ryan and Mr. Bakewell separately.

Q. They came on separate occasions? A. Yes, sir.

Q. First which one came? A. I could not tell the exact time; I think it was about in November, 1914, but I can't identify those dates.

Q. When Ryan came, did you and he read the same articles in the paper? A. No, I just had the file there and let him have his inspection, what he wanted, whatever he said. I am, of course, a lawyer, and I won't want to go into any statement of his object declared to me, and I let him have the files.

Q. He did say to you, did he not, that he wanted to look at these papers with a view of determining whether or not THE MENACE and THE MENACE people could be prosecuted, or the paper put out of the mails?

SENATOR WILSON: I object to that for two reasons: If he consulted as a client, it is privileged, and—

MR. SHEPPARD: I will withdraw the question.

Q. Mr. Bakewell came to see you either before or after Mr. Ryan? A. Yes, sir.

Q. And you showed him the papers, did you? A. Yes, I let him have an inspection. Whether he came personally or sent some one, or Judge O'Neil Ryan came for it, I am not positive about that, Mr. Sheppard. That is more than a year ago. But I know that both of the gentlemen spoke to me, and I am trying to give accurate information as nearly as I can.

Q. You know, being an active member of these Roman Catholic

societies, that Bakewell has been for some years interested in trying to get THE MENACE out of the mails, don't you?

SENATOR WILSON: We object to that.

MR. SHEPPARD: It is merely preliminary.

THE COURT: That can only affect Mr. Bakewell himself, and at this time is immaterial.

MR. SHEPPARD: We except.

Q. Did you at the time confer with Mr. Bakewell or at any time before the returning of this indictment with reference to getting THE MENACE debarred from the mails of the country?

A. I had one conversation with him.

SENATOR WILSON: This has reference to the barring from the mails, and the postoffice department. That and the legal arm of the government are two separate and distinct branches.

THE COURT: The court will have to instruct the—

MR. SHEPPARD: (Interrupting) That can be answered yes or no, Mr. Schneiderhahn.

THE WITNESS: I won't be sure about that.

THE COURT: The question is whether you did.

THE WITNESS: Miss Stenographer, will you have that last question repeated to me.

(Question read by the official reporter.)

Q. (Continuing) Or its editors indicted. A. Mr. Sheppard, I can not answer that just yes or no.

Q. Well, answer it in your own way. A. I had one conversation with Mr. Bakewell that I remember, at Mr. Bakewell's office, and he was looking up the federal laws on the question of the character of mail that can be excluded for obscenity, and by virtue of my position I offered to give him certain data, which thereafter I gave him, as to the United States laws. And that is all I knew about the matter.

Q. Let me ask you: at that time, special reference was made to THE MENACE, was it not? A. Oh, yes, yes.

ANOTHER ROMAN CATHOLIC TO THE AID OF THE PROSECUTION

The next witness for the prosecution was Miss Nonie J. Wilson, the stenographer of Paul Bakewell, the prominent

Knight of Columbus and Romanist who boasted that he had secured the indictment against THE MENACE. It was on the testimony of these three prominent Romanists, Harwood, Schneiderhahn and Miss Nonie J. Wilson, that the prosecution depended for proving that the papers and the book mentioned in the indictment had been received through the mails. Miss Wilson, in answer to a question from the prosecuting attorney stated that she and Paul Bakewell were both members of the Catholic church. The following testimony was illicited under the cross examination of Mr. Sheppard.

Q. Did the circular advertising the book come with the book?

A. I think I did receive some circular, with the books.

Q. I hand you a paper marked Exhibit 210 and ask you if that is the circular that you received at the time the books were received by you. A. I don't remember it.

Q. You don't remember it? A. I don't remember it.

Q. Do you remember, Miss Wilson, of the circular that you received containing a challenge to anyone, either Protestant or Catholic, to prove any statement in the book untrue and offering ten thousand dollars to the person that would do it?

SENATOR WILSON: If the Court please—

MR. SHEPPARD: Did you understand my question?

A. I lost track of it.

Q. Do you remember seeing on this circular a challenge to Rome or to anyone to show that any statement made in the book was untrue and offering to pay to any person who would find an untruthful statement in it the sum of ten thousand dollars?

SENATOR WILSON: I object to that as incompetent and immaterial.

THE COURT: Sustained.

MR. SHEPPARD: We except. And I offer to prove by this witness that the circular she says she received contained that statement—

THE COURT: Objection sustained.

MR. SHEPPARD: I didn't notice that he objected to the offer.

THE COURT: I understand; that is a mere repetition of the question.

MR. SHEPPARD: I want an exception.

Q. What did you do with the books, Miss Wilson, after you got them? A. As soon as the mail man handed them to me, I took them immediately to Mr. Paul Bakewell's room, and I unwrapped them in his presence and in the presence of his brother, Mr. George Bakewell.

Q. And do you know what became of them thereafter. A. One copy was sent to the postmaster-general at Washington, and the other copy Mr. Bakewell kept.

Q. Will you look at this (indicating) and see whether this is the copy that was sent to the postmaster-general at Washington? A. It was initialed. I initialed both copies so I can't tell which was sent and which wasn't. I initialed them both in the same way.

Q. So you wouldn't know? A. I wouldn't know one from the other.

Q. One was sent to Postmaster-General Burleson? A. Yes, sir.

Q. And one Mr. Bakewell kept? A. Yes, sir.

Q. Do you know whether he still has that in his possession?

A. I don't know.

Q. This (indicating) is one of the two copies? A. If it has my initials in it.

Q. I wish you would look. A. Yes, that is one of the books.

Q. You say you sent for them, at Mr. Bakewell's direction? He furnished the money to pay for them, did he?

A. He did.

Q. How did you send the book to the postmaster-general?

A. Through the mail.

THE OPENING ADDRESS FOR THE DEFENSE

Mr. Sheppard's opening address to the jury was like his closing appeal, a masterpiece in its clarity of reasoning, sincerity and directness. He opened by showing that THE MENACE had been started almost five years ago as an anti-Romanists publication but that it did not attack the rank and file of the Roman church, it opposed the Roman Catholic Political Machine. He read the opening editorial or salutatory written by the venerable and universally loved Congregational clergyman, Rev. Theodore C. Walker, who from the foundation of the publication has been its senior editor. He showed that the aim and purpose of the paper, or the chart as outlined in the opening article of its first issue has been consistently followed.

In an earnest and convincing manner he outlined what the defense proposed to prove. He insisted that certain facts must be taken into consideration if the intended objects of the law makers who framed the statute was to be considered. The government wanted to take a few words, sentences or paragraphs from long articles and without permitting the jury to know the context which was necessary not only to show whether the language used was justified, but also to show whether or not the language complained of was in its setting moral or immoral—whether the effect would be such as to lead the reader to active efforts for the purification and elevation of society or whether the effect would be debasing on the imagination. His insistence, on the necessity of the whole article being placed in evidence, as essential to an intelligent determination on the part of the jury was one of the most impressive and compelling features of his opening statement and we are inclined to believe that it impressed Judge Van Valkenburgh to such a de-

gree that he added matter from the context to the words, sentences and paragraphs in the indictment and this addition, meagre though it was, instantly emphasized in a bold and impressive manner the high and noble purpose of the articles and, though the paragraphs admitted were only small additions, they were enough to prove a staggering blow to the prosecution.

The prosecution, in addition to the testimony of the witnesses already mentioned, called to the stand a number of citizens of Aurora, to establish the positions of the defendants as officers in the company publishing the paper, or as editors of THE MENACE; also for the purpose of proving that THE MENACE was deposited in the mails.

The defense called to the stand three or four witnesses out of a great number of prominent people who were present and ready to aid in proving, the high purpose and good faith of the defendants, the truth of the charges made in the articles complained of, the obscene character of the moral theology approved by Rome and whose influence on the minds of the priest could not be otherwise than demoralizing, and the importance to the cause of sound morality of the articles published in THE MENACE against portions of which, the indictment was leveled.

Under the narrow construction insisted on by the court, however, these witnesses were not permitted to testify on the various points, which the defense held to be material and important to the cause of sound morality and the high ends of justice.

After the evidence had been offered and the closing arguments made by the attorneys on both sides, Judge Van Valkenburgh delivered an extended charge to the jury, occupying one hour and twenty minutes, in which he admonished the jurors to carefully weigh the evidence as it related to each of the several counts. The jurors seemed deeply impressed with the charge and after several hours of deliberation, returned a verdict of acquittal on each of the seven counts.

Thus in this great battle in Rome's campaign against the constitutional guarantees, of freedom of religious discussion and freedom of the press, the cause of democracy triumphed over the papal forces.

HON. J. L. M'NATT

SPEECH OF HON. J. L. M'NATT

Delivered to the Jury at Joplin, Mo., January 14, 1916, In Defense of The Menace and Its Staff Who Were Charged With Sending Obscene Matter Through the United States Mails.

If the court please, gentlemen of the jury: I am glad of the opportunity to represent these defendants in a case of this kind, for it means much to them, as my friends and neighbors, whose liberty is here placed in jeopardy; but it means still more to you as citizens of this country to be right in your verdict in this case, for the principles involved in this prosecution are of the gravest and greatest importance, to every citizen that lives under the American flag. Therefore I am glad to talk to you in my weak way about what I conceive, under the rulings of the court, is your duty as jurors, to reason together and discuss this testimony, with a view of assisting you in arriving at a righteous verdict.

I trust, gentlemen, that certain propositions have been thoroughly established in your mind, for you have heard them threshed out here pro and con, and one of them is, as His Honor has so strictly indicated, that the truth or falsity of the charges contained in these counts, or, rather the facts that were printed in THE MENACE newspapers and in the book called "The Pope" condemning the Catholic priesthood, upon which this indictment is founded, the truth or falsity of them, I say, as far as you are concerned, should not in any way influence your judgment in this case. While we were ready to prove the truth of publications, His Honor ruled it was immaterial.

That being granted then, I am going to ask you as reasonable men, in considering this testimony, to be as charitable as the circumstances now demand that you should be, and so far as any suspicion that you may have as to these articles, disclosing such a

horrible condition in the priesthood, being untrue, be removed from your minds; and while it is true we don't like to believe such things do and can exist, in this civilized age, yet for the purpose of this case you should look at these articles that are charged to be obscene in the light and in the way you would look at them, if you personally knew them to be every word the truth.

CONTEXT NECESSARY TO JUDGE EFFECT

Now, then, I am not going to take up my time and yours in a detailed reading of what the court admitted in testimony. It was not only what the distinguished gentlemen representing the government has read to you from this indictment. You know that many things were introduced and read to you besides the excerpts contained in the indictment; they were presented to you for the purpose of enlightening you men as to what was meant by these articles charged to be obscene, and what the object and purpose and the general effect these articles would have upon the person that read them. Anything is obscene or not, according to its object and understanding. Now, bear that in mind; for that is one thing, and in fact the controlling thing, that you are bound to consider; and you should take into consideration all the testimony before you, in determining what the probable effect the reading of these articles would have upon a person of ordinary intelligence.

Therefore, starting in with the proposition that these articles are telling the truth, and that you are to consider not only what is set out in the indictment, but all the evidence and extraneous matters that the court has admitted to come to you from the witness stand, so you may judge the meaning of the articles and their object and effect upon persons reading them, then let us see.

I will adopt the definition government's counsel has given the words "obscene, lewd and lascivious," for the purpose of my argument, and I believe he is right in saying the statute under which these men are being tried for a felony is leveled at such literature as tends to deprave or degrade the morals or arouse in the mind of the person reading it lustful and evil thoughts. Let us see if any of these articles could have that effect. Take the "Little Orphan Annie" article, Gentlemen, and I apprehend you are a fair representation of the million and a half of honest, God-fearing, God-loving people who read this article, and I want you men to answer

on your own consciences if by hearing this article read, your morals have been degraded. If there is a man on this jury whose mind lies in the direction of depravity, who looks for the evil, and seeks the vulgar in all things, if, I say there is a man on this jury that, after he has read the entire story contained in "Little Orphan Annie," wherein it is described how this innocent nun was so brutally outraged, if it arouses in your mind lustful thoughts and desires that would tend to seduce your morals, answer me by your verdict and convict these men.

Does it arouse in your minds the lustful or evil thought that would lead you astray? Ah, men, I know you better than that; you are not that kind of citizens, the effect on your mind when you read of this horrible assault is one of Christian sympathy for this unfortunate girl who was so foully treated by the person she had a right to look to for protection. It does not arouse in you such feelings as would tend to demoralize your character; it does not arouse in you feelings of lustful desire; but it does arouse in your minds and hearts a feeling of regret that such base beings as this priest are permitted to live. It brings to you men the same feeling that would cause father or husband to shoulder his gun and go out to seek the despoiler of womanhood. Isn't that what you are thinking about? Why, gentlemen I would be ashamed to look you in the face, and think you would be evil minded in this matter: I would not have the courage to accuse you men of having aroused in your minds, from reading this story, a lustful desire or a lascivious thought, that would deprave your morals.

Now, you can go clear on through with the whole of these articles, and when you see the object, none of them has an effect on the mind of a sane man, of a lustful nature; but on the contrary when you read what these articles tell you is the true condition, your mind is aroused with thoughts of earnest and sincere condemnation, and your prayers are that these evils will be eventually exterminated.

Now, I have adopted the government's own definition of the purpose of this law—what it means—and you have here a case clear out of the purpose of the law. You can go article by article, and you can see that the articles complained about by the government

as being unmailable, only carry out the objects of this wonderful publication that was set forth as the platform in the initial number.

PUBLICITY A CORRECTIVE POWER

It has continually, as these articles show, held up to the public something the public is entitled to know; and when that is done, I say the morals of the country, instead of being depraved or degraded, will have been uplifted in the minds of all sane and Christian people.

Let us take a few examples: They comment more specifically on what was said in Mr. Crowley's book about the priest Thompson. They say that is obscene and filthy; if so the article shows it was taken from another newspaper of general and daily circulation. Therein is disclosed a history of the prosecution of a priest named Thompson, under the same statute these men are placed on trial under, to answer to the disgusting charge of degrading and defiling the mails in a manner that makes one sick at heart to think about.

I want to ask you, gentlemen, if a man in high official position, a priest of a church, who is intrusted to look after the morals of the country and his people—I want to ask you, if that man was guilty of that conduct, which for the purpose of this case you are bound to believe he was, is not every citizen, regardless of his religious affiliations, entitled to know the truth? If such people in this world insist on violating both laws of God and man, in high position, how else, and in what better language, what milder language, could it be phrased, than was used by Father Crowley in his book? Was it that you did not like to hear it? Of course you did not like to hear it read; we don't like to believe it, we don't like to think such things could be possible; we don't like to believe that a human being could become so depraved and especially one high in authority, to stoop to such degrading things. But does it arouse in your minds a lustful desire? No, gentlemen, it is disgusting to you, and you are willing here and now to join hands with not only THE MENACE but of the one and one-half million of its subscribers, as referred to by the government, to help stamp out, by creating public opinion so strong that no man will dare hold such high position, and play such hypocritical part in his life.

So when we see that the object and effect of this article was to give public opinion a chance to publicly and effectually condemn

such practices of shielding priests by the political machinery of the Roman Catholic church, I know you men will say this article is not only free from censure but highly commendable.

COMPARISON AN EFFECTIVE AID

If that kind of literature is obscene, I can call your attention to illustrations that you will find in the book of Genesis. You have all read that book of the Bible. You all know what the language meant in the Thompson article—so you all know what the language meant when the description was made in the Holy Bible of Onan and his brother's wife—

MR. WILSON: (Interrupting) In view of the ruling of the court that other books cannot be introduced, I desire to object to that as a matter of argument.

THE COURT: The court will have to instruct the jury that all readings of this sort are outside of the question, because this book can not be governed or judged by what is contained in any other book.

MR. MCNATT: That is true, in a sense Your Honor, but I have never known an argument where it would not be proper to draw illustrations from the Bible.

THE COURT: Proceed.

MR. MCNATT: Now, gentlemen, use your own knowledge of readings that you have had. You have a right to do that. You have a right to say whether or not, according to your own ideas, the word of God is obscene as handed down to the human race; but under the court's direction I will not discuss specifically anything along that line. But I will say in this connection, that if you bring into a jury box illiterate men, who have no common understanding of the English language, and unfamiliar with the book of Genesis, then it would be hard to speculate what they might say was obscene. I make this discussion along the lines that you are bound to be governed by your own ideas as to the meaning and the intent and the effect on the mind of a person when the article is read.

Now, gentlemen of the jury, I will give you this illustration, as I believe it will better explain my ideas about this case. Let us take for instance a scientific book, a medical book; that kind of a book may properly come to you through the mails and you may have it in your home as an aid to your family's health. It may have

pictures in it that would be highly obscene if taken alone, and would call forth the condemnation of this jury immediately. But when you take the book as a whole, as the court will tell you you should take these articles in connection with what was given you, as a whole, you will then see that the book's object and its effect is of the highest purpose and most commendable. If I should take that book, cut out one of the pages showing all the parts of the human anatomy, and mail it to you, unexplained, I would expect to be convicted of obscenity and serve my term in prison.

But if I mailed that book to you containing that very page, as a part of that scientific book, that was necessary to understand and to help humanity, then it would not, gentlemen, in my judgment, and I do not believe in the judgment of any man on this jury, be obscene.

OBSCENITY DEPENDS UPON PURPOSE

I am going to give one other illustration. I refer to the ordinary almanac. It might be that in the ordinary almanac, on the first page, a nude picture of a man. If that alone were sent to you through the mails, it would be a violation of this law. But when you find out by turning through the book that the picture was put there for a laudable object, and its effect is to show to you what the signs of the Zodiac mean, and how to find the location of the sign by turning to the proper date in the book, it is highly desirable and necessary, and is not obscene.

I say these are illustrations to show why the court said to the District Attorney, "You can not read certain excerpts and extracts from a piece of literature without letting the jury have it all to see what effect it will have upon their minds."

Now, gentlemen, let us think about the evils that would overtake us in this busy life should you in this instance say this book and these newspaper articles are obscene. In the first place, men, we have become such a wonderful country, such a busy people, and so enlightened in educational matters, that we rely almost entirely upon the newspapers of the country to inform us what is going on in the land. I want to tell you men, and I believe you will agree with me without the least argument, that if you show the world by your verdict that the priests and ministers of any church, who are in the public eye, who are serving the public, cannot have printed about

them that they are immoral, and their immoral acts and conduct brought to public attention, then virtue will no longer be protected in this country. Public opinion is the only safety against the evils of hypocrisy. We are all too busy to circulate and create public opinion sufficient to stamp out the evils of any organization by passing it from mouth to mouth; and even then, it might be doubted as to its truth. But in a case like this, where the great question is up before the people to help purify the church, if we have no right—if the people are not entitled to know through the columns of the newspapers, the moral standing, the moral conduct of the persons in high position, then I say, men, we as a people are absolutely without remedy; because you men know that public opinion and public exposure is the only punishment for the immorality of our public men. Few penalties are imposed by law for immorality.

PEOPLE HAVE A RIGHT TO KNOWLEDGE

Every man has a right in a general sense to live as immoral as he likes, as long as he does not make a public spectacle of immorality. But don't you think if you were standing at the head of a great church, or if you were running for some great office, or holding some position of trust, it would be right and fair that the people, under whom and through whom you received this honor, should be entitled to know your moral standing and your moral acts and conduct? Why, I say to the distinguished District Attorney, who is now in the public eye, who is serving the public, that he would not deny this proposition and say that the depravity of a public man cannot be discussed in the newspapers.

Take for instance, gentlemen, members of our supreme court. Perhaps there is not a man on this jury who has a personal acquaintance with any of the distinguished, high-minded, moral gentlemen that compose that court.

Suppose that something would come up in the life of one of these men that would unfit him for service from a moral standpoint. How in the name of common sense, men, would you find it out? How would the people of this state ever know? How could they learn the facts except through the columns of the newspapers? If I should tell you of immoral acts and conduct detrimental to the character

of these men, you would immediately become skeptical and say "it certainly is a mistake, for I have seen nothing in the newspapers."

So therefore it is highly proper, and the effect of it is proper, and the object of printing such matter is proper to go before the people to advise them of the merits or demerits of public servants, whether it be in church or state, in order that evils if they exist may be righted by the people.

And you might go on with this line of argument, but it is no use, for you men understand these things, and His Honor will not attempt in any way to tell you that such articles as I have referred to are not legitimate subjects of discussion in newspapers that go through our mails.

Now, going back again to the definition and interpretation of this statute, as given you by the District Attorney, I want to ask you wherein lies the difference between the class of articles just mentioned and those published in THE MENACE?

ROME THE REAL PROSECUTOR

I desire now to call your attention to another subject just for a moment before I forget it. And that is this: In the opening statement of the able District Attorney it was denied that the Catholic church or the order of the Knights of Columbus caused this prosecution.

Of course they did not! How could Senator Wilson do anything else except what he thought was his duty? But I want to tell you, gentlemen, that the moving cause behind the government in this case that influenced His Honor the District Attorney, in presenting this matter to the grand jury has been shown to you. And when we see that this paper has something like one and one-half million subscribers and that only three people were put on this stand to tell you they received any of these copies, and that they were received for the purpose of bringing a prosecution against this paper, and solicited to be sent them for this purpose, and that these three people are all either Knights of Columbus or Catholics working together with the Knights of Columbus, we can then understand the prosecution. Of all the one and one-half million subscribers, not one of

them seems to think the morals of the people are being outraged by this publication, and comes here to prosecute.

Now, gentlemen of this jury, I want to say to you that it happens to be my pleasure to live in the shadow of the building that prints this paper. I am raising a family there in sight of this plant. And I don't think the morals of my two girls or my boy is going to be lowered by anything that has or will appear in this paper.

I am glad to be able to say that, especially when these men are called into court, facing a charge of feloniously violating the mailing laws I am glad, men of this district, to be able to come here in their defense, not only as a lawyer but as a citizen, to say to this jury that these defendants are not criminals. Not one of these gentlemen are men of crime; you all know that. You know that your pocketbook or your property or the chastity of your wife or daughter would be as safe in their hands or in their keeping as it would be in your own. I know you all know that, for none of you men could listen to the reading of the initial article in the first number of the paper and then look these men in the face and say they are not men of honor and honesty.

As a rule, gentlemen, if there is an institution violating the laws—for instance a blind tiger or a house of prostitution—that is degrading, depraving and demoralizing the people, usually you find some one in that locality, of righteousness and courage to come forward to prosecute, and the fact that it is not done usually satisfies the ordinary mind that no law is being violated. If such things are running in violation of law, we do not wait in our country for men to come clear across the state to suppress them. Our good citizens living in the immediate vicinity would be the first to act and see that the evil was removed and the offender punished.

This illustration is very applicable here, for I want to say to you in defense of the good citizenship of Aurora, that the government must be mistaken in its contention. For I know if this paper was publishing matter that was demoralizing the country, and sowing lustful thoughts in the minds of the people, our own citizens would be here clamoring for a conviction in the same numbers as they are here praying for an acquittal. These men who are raising their

families and take this paper in their homes at Aurora would be the first to cry out for relief if this paper was polluting the mails with obscenity.

NOT CRIMINALS, BUT BENEFACTORS

Now, gentlemen, as I told you, I know these defendants well; they are my friends and my neighbors and I want you men to think of the laudable purpose these men have in life; of the inspiring article written by the venerable, gray-haired man, Walker, who has passed, perhaps, the allotted time of most men on this earth. Inspiration came to that man when he wrote that article and that same inspiration has been guiding the destinies of this paper ever since, and when you think of men fighting a cause so just; when you think of the injustice done these men when they have been brought in here branded as felons, it is bound to make you blush to think how badly mistaken the District Attorney and the Grand Jury were when they returned this indictment, although they may have been sincere in their beliefs at the time.

Now, men, I am going to close and give way to my distinguished associate who has been more active in this trial than I, and all I ask you men to do, all these defendants desire of you, is fair play. Follow the testimony, follow the charge of the court in your deliberations; and let the same guiding hand and guiding spirit enter into your thoughts in giving interpretation to these articles as inspired Theodore Walker when he wrote the platform of this paper in its first number. And when you do that we know what the result will be, for it will be your happiest moment to say to these men, "return to your homes; you have done no wrong." Gentlemen, I thank you.

HON. J. I. SHEPPARD

SPEECH OF HON. J. I. SHEPPARD

Delivered to the Jury at Joplin, Mo., January 14, 1916, In Defense of The Menace and Its Staff Who Were Charged With Sending Obscene Matter Through the United States Mails.

If the court please, and gentlemen of the jury: I feel that I ought not take your time to further argue this case on the part of the defense, since my associate has made so able a presentation of it. I have never heard a clearer or a better discussion of the issues in a law-suit than Mr. McNatt, has just given you—free from any passion, free from any prejudice, free from any of the things that sometimes inspire lawyers to say things they ought not say—coolly, calmly, deliberately, as a sensible man, he gave you his views of the law and the evidence in this case.

But I think of the seriousness of the matter, and for fear there might be something overlooked somewhere along the line that would result disastrously to our clients, I crave a few moments of your time.

We have been here now three days. I knew none of you when I came. I was a stranger to you. I am a stranger yet, in the ordinary acceptation of that term, but yet I feel as though I had known you all my life. I have looked at you at times when you were not conscious of it—studied the face of ever man on this jury; and I felt certain then, as I feel now, that no harm can come to these defendants, because your faces bespeak honesty and uprightness of purpose.

We have gotten through with this trial without any of the wrangling that sometimes takes place in the trial of cases in court. I was fortunate indeed to have associated with me such a man as John L. McNatt. He has brought to our aid in this trial his pro-

found learning and experience. His deep knowledge of the law has at all times been a source of strength and comfort to me. He is a noble example of the illustrious sons which the great state of Missouri has produced.

We are fortunate, to have on the other side of the case such distinguished gentlemen as the District Attorney and his assistant, men of honor and integrity. I think I may say that no case was ever presented in a better way than has the District Attorney presented this one. Francis M. Wilson has brought out in this case everything that could possibly have been presented to you. He has done his whole duty as his oath of office requires him to do, and if he is called, as it seems from the many reports that have come to me during the last few weeks he will be, to the high office of Governor of this State, I am sure that he will take with him there honesty, dignity, ability, and the noble purpose to do for the State of Missouri what the other eminent men have done who have preceded him in that high place. I know that he wants nothing to interfere with the course of justice here. I have known of him a long while, but this is the first time I was ever associated in any way with him in the trial of a cause. But I say to you, that his treatment of us has been fair and courteous and gentlemanly. I am looking forward with pleasure to what I know will be, after I have concluded, an eloquent and scholarly argument of this case; and you gentlemen are to be congratulated that you will have an opportunity of hearing him.

NO CASE TO BEGIN WITH

And yet, gentlemen, lawyers cannot make cases. There was no case to begin with. When jurors are sworn to return a verdict according to the law and the evidence, they are bound by their conscience to do that which is right, and although lawyers may sway them, although lawyers of great ability may present arguments that seem hard to answer, yet the average juror comes back again to his guide—his conscience. And I say to you, without fear of successful contradiction, that notwithstanding verdicts of juries are sometimes criticised, yet in the vast majority of cases—ninety-nine out of a hundred—the verdicts of juries are right; and that is why the people insist upon retaining the jury system. Twelve men are called from every walk of life to sit in judgment upon the conduct and actions

of their fellow citizens. And when they have determined, the people are satisfied that if they haven't done right, they have at least tried to do so.

You twelve men occupy a peculiar position today. As soon as the arguments are finished and the court has charged you as to the law, you go to your jury room to deliberate upon your verdict. When the door of the jury room closes behind you, and you twelve are left alone, you will have more power than any president, any emperor, any prince, or any potentate in all the world. You have in your keeping the liberty of four men—your fellow citizens. It is for you to say whether these men shall go back to Aurora, cleared of the stain that this charge has brought against them, or whether they shall proceed from here to Leavenworth as felons, sentenced, to pay a fine of five thousand dollars and to serve five years in the penitentiary, on each count that you convict upon. So I say that you have a wonderful power in your hands today. The probabilities are that none of you will ever again be given such power, for men are seldom called to render jury service; some never are called. And so I speak to you of the seriousness of the great responsibility that rests upon you, and I ask you to use your great power as becomes noble men.

In this case, it is urged that we must be confined strictly to the matter set out in the indictment. You noticed what that matter was. Now, I may have misunderstood the court's rulings a moment ago, but I think he will instruct you at the conclusion of this case that you have a right, when you deliberate upon the question of whether this matter is obscene, to call to your consideration, your knowledge of the literature of the world, the Bible, Shakespeare and other standard works, for the purpose of determining the effect that that literature has had upon the world, and for the purpose of determining what effect this particular literature will have upon the world. I say, I am convinced the court will give you that instruction. It has been requested.

GARBLED PASSAGES

You have read in Holy Writ—and didn't your fathers and mothers before you, as mine did—read things from which, if you take an excerpt such as is sought to be taken in this case, from a

page or a chapter or a paragraph and consider it, standing alone, would not sound well to ears polite.

MR. WILSON: Just a moment. Now, if the court please, I very much regret to interrupt my friend, but under the rulings of this court, I do not understand that he is permitted to argue to the jury that which was expressly excluded by the court. He cannot argue as to excerpts from other books.

MR. SHEPPARD: If your honor please, in the cases that have been decided, Your Honor knows that attorneys have been allowed to read and to quote from books of standard literature, not for the purpose of comparison, but, as was said by Judge Thayer in the case I handed to Your Honor—in the Clark case, that it could be done for the purpose of assisting the jury in determining what effect such literature had had upon the people, and so it could be taken into consideration for the purpose of determining what effect the particular literature alleged in the indictment to be obscene, might have upon the people; and I insist, if Your Honor please, that it is the right of the defense to continue the argument along the line indicated in the decisions I have referred to.

THE COURT: The court will instruct the jury with respect to its view of the matter, in consideration of counsel's agreement to hold himself within the reasonable observations of the rules requiring the introduction of evidence.

MR. SHEPPARD: I shall do so, if Your Honor please.

Gentlemen, I need but call your attention to two of the great books of the world and the literature contained in them. I will speak only of the Holy Bible and Shakespeare. These two books are in every man's library. If the rule were enforced that is sought to be enforced by the government here, neither the Holy Bible nor Shakespeare would be allowed passage through the mails of the country. Why, gentlemen, the language charged as obscene in the indictment in this case, compared with some passages in the Bible and some in Shakespeare are the very essence of all that is chaste and seemly. The story of Onan, the son of Judah; the story of the rape of Tamer by Amnon and his death at the hands of Tamer's brother, Absolom; the story of King David and Uriah's wife; many parts of the play of Romeo and Juliet, and other of the great plays of Shakespeare might easily be tortured by the prude or the "uncoguid" into seeming obscenity—if, wrenched from their context, they

were coldly considered alone. But the rule, gentlemen, as the court will tell you, by which you are to consider whether or not the language charged in the indictment is obscene is this: does the alleged obscene matter taken in connection with its context have a tendency to debase and corrupt the minds of those into whose hands it may come.

THE MENACE CONSISTENT

Now, gentlemen, in the opening statement I told you that we would read the first article in the first issue of THE MENACE to show you the object and purpose these gentlemen had in establishing the paper. I kept that pledge, and I read you that article today, and you remember it now. In that article, as you remember, Rev. Walker said:

"THE MENACE was not begun in a captious spirit, far from it, but with a profound conviction that a very grave and portentous menace confronts the American people, that needs to be given publicity.

"THE MENACE has no fight with the Roman religion for those who like it, as it relates to salvation and the future life.

"The threatening danger to American institutions, a free church, a free press, a free school, the right of private judgment in the matter of conscience—these the Roman church subordinate to the authority of its hierarchy.

"The private, humble communicant in the Catholic church has no choice what he is to believe—it is for him to obey the voice of the church.

"THE MENACE *takes issue with this voice, and not with the communicant; with the authorities that direct, and not the man or woman who feels compelled to obey.*

"THE MENACE, therefore enters a legitimate field of criticism open to all whether he be Catholic, Protestant, Greek or Jew, Mohammedan or Freethinker.

"If the Catholic church is a menace to American liberty and free institutions, the people ought to know it, especially the Catholic members.

"The only freedom that is worth having at all is that which

the Christ announced when he said, 'and the truth shall make you free.'

"It is not a question of who utters condemnation against priestcraft and ecclesiastical interference in things belonging exclusively to the state; but, is the charge true?

"To assail the editor of THE MENACE or its publishers will avail nothing. The hierarchy must meet the impending crisis which THE MENACE believes is at hand or be driven from the field as in France, Germany, Spain and every great nation of modern times."

This was the chart which guided these defendants at the time they launched THE MENACE, and the same high and noble purposes have ever since inspired them.

ROME THE REAL PROSECUTOR

And who is the real prosecutor in this case? Ostensibly it is the United States government, but in reality it is the Roman Catholic Hierarchy.

The only persons who testify to receiving the alleged objectionable copies of THE MENACE through the mails are Landry Harwood, a lawyer of Kansas City, Missouri, and head of the Knights of Columbus in Missouri, and E. V. Schneiderhahn, a lawyer and prominent Knight of Columbus of St. Louis, Missouri. The only person who testifies to receiving a copy of the Crowley book through the mails is Miss Wilson, a Roman Catholic of St. Louis, Missouri. Miss Wilson it seems is also stenographer for Paul Bakewell, another St. Louis lawyer and a high light in the Roman political machine. It is this same Bakewell who claims credit for having procured the indictment in this case.

According to Harwood, these Roman Catholic lawyers took THE MENACE and carefully read it to find if possible some means of excluding it from the mails, or of having its editors indicted. We find Schneiderhahn, Bakewell and another Roman Catholic lawyer of St. Louis, Judge O'Neil Ryan, meeting at Bakewell's office trying to devise means for ending the career of THE MENACE and imprisoning its editors.

And just to think, gentlemen, of the infinite pains these Roman Catholic politicians took in trying to protect heretics from

being polluted and contaminated by reading THE MENACE and Crowley's book.

Ah, gentlemen, their solicitude was not so much as you may well believe for the moral welfare of the people as it was to prevent just criticism of those in authority in the Roman Catholic church.

The postmaster at Aurora has testified before you that millions and millions of copies of THE MENACE have gone through the mails in the four years of its existence, and yet these distinguished Roman Catholic lawyers—members of the papal machine—together with the government inspectors and detectives were able to find only six articles, which they thought worthy of presenting to a grand jury. I say to you that they strained at something to get into court. Haven't they done so indeed gentlemen?

Remember, I am not blaming the District Attorney. He has done his duty. When a lawyer takes official position, he must obey the oath of office he takes. He must follow instructions from superiors. The testimony here is that this man Bakewell got two of the books; his stenographer delivered them to him; she ordered them at his direction and paid for them with his money. He kept one book and he had her send the other on to the Postmaster-General, stating, as the testimony shows, to the Postmaster-General in a letter that he wrote him that he was sending a copy of this book, properly initialed so he could identify it—that he was also sending him a copy of THE MENACE, stating that if he could put THE MENACE out of the mails to pass it up to the Attorney-General to have them prosecuted. That is the testimony here. Those books, or that book that Paul Bakewell got in his hands appears here. It appears here, and upon it the indictment in the seventh count is based. Upon the papers that Landry Harwood received and the papers that Schneiderhahn received, the other six counts in the indictment are based. And then you tell me that we haven't shown the hand of Rome? How could it be more plainly shown? *Yes, gentlemen, Rome is the real prosecutor of these defendants.*

THE CROWLEY BOOK

These Roman Catholic gentlemen who are responsible for this prosecution made a great and serious mistake. I believe they must realize it now. What they should want to do, it seems to me, would be to ascertain whether or not the things charged in THE MENACE

and in Crowley's book are true. Why, gentlemen, only a small portion of the Crowley book has been admitted in evidence but you remember that therein it is charged among other things, that by reason of the foul, filthy and vile suggestions that are poured into the ears of innocent women and girls in the confessional by Catholic priests, thousands of Catholic women and girls finally take to the street and wind up in the jails or in the grave as debauched and ruined women. It is charged that a majority of all the prostitutes in the world are recruited from Catholic womanhood and girlhood by reason of the foul suggestions and filthy questions which are asked in the confessional by Catholic priests. It is also charged that vast numbers of Protestant girls who attend convent schools are debauched and ruined by Catholic priests and that these priests boast of the ease with which they can ruin Protestant girls.

If these things are true, then instead of trying to suppress their publication by prosecution, these men who are back of the prosecution in this case and all others who belong to the same organization should want the facts known and then should make it impossible, if they find them to be true, for such conditions longer to exist.

INSINCERITY OF PERSECUTORS

It just happens that my brother, the District Attorney, and I both belong to the Methodist church and the Masonic Fraternity. Suppose that such charges as are made in the Crowley book and in THE MENACE against the Roman Catholic priests and the Catholic politicians were made by someone in a newspaper or a book against the Methodist church or the Masonic Fraternity. What would Mr. Francis Wilson do and what would I do? What would be his duty as an American citizen? And what would be my duty as an American citizen under such circumstances? Would we carefully keep files of the paper and in a round-about way secure copies of the book in which such charges were made? Would we wait for years to find some small excerpt in such papers or books upon which we might possibly base a prosecution against the author and publisher? As for myself, I would not do such a thing and I am sure Mr. Wilson would feel as I do about it. I am sure that we would go at once to the leaders of the Methodist church organization and to the leaders of the Masonic Fraternity and give them our information and demand an investigation of the charges. If they were found to be

true, means would be taken to correct them and instead of prosecuting those who had given the information, I am sure that good men would approve their conduct and honor them for making the exposure. There would have been no appeal by us to the Postmaster-General or to the Department of Justice, unless we found first that the charges were false. So I say to these men (turning and directing his remarks to Landry Harwood and Paul Bakewell who sat within the rail) correct these conditions. Clean house! Clean house! and then the people can't talk about you. You ought not bring prosecution against these men. If these things are true, nobody, as Rev. Walker has well said, ought to want to know it more than you Roman Catholics yourselves. If it is true, as Jeremiah J. Crowley says, that the Roman Catholic church is a great grafting machine, why in the name of God don't the Roman Catholic people reform it?

LET THE TRUTH BE KNOWN

I say the proper thing to do is to correct these conditions. What did Mr. Walker say? He said that if these things are true, the people should know them. That is what THE MENACE has always contended. That is what Jeremiah J. Crowley contends. This great man is making a heroic fight for the people of this counrty and the people love him for it. I remember some things that he said to me when I first met him that better describes his character than anything I can tell you. When I asked him about his work, he said, "Mr. Sheppard, by the grace of God, I have abandoned Popery for Christianity; I have exchanged the Mass book for the Bible; I have quit the standard of the Pope and have enrolled myself under the banner of Jesus Christ. I have but one ambition in life, and that is the ambition that nerved Savonarola to die and made Martin Luther live."

Jeremiah J. Crowley, the man who was for twenty-one years a priest, and the man who wrote this book, portions of which have been introduced here, is a public benefactor. The time is right here when the people of America are going to know what is in this book, not portions of it but all of it. I was born in the South and I can remember a great cause that years ago agitated the people of this nation. My people, and all the people in our part of the country, stood for the decisions of the courts of law that said that a human

being, fleeing for liberty, could be captured and taken back and delivered over to another human being, and the man who did not capture him and deliver him up was also held a criminal. I remember that during that agitation, as you men well remember, William Lloyd Garrison was dragged by the neck with a rope through the streets of Boston, because he advocated in his newspaper the abolition of slavery. The Fugitive Slave Law and all the decisions based upon it were wiped out by the will of the people as expressed in armed conflict. If the time comes when men, legitimately engaged in publishing newspapers and in writing books, cannot publish them for fear of prosecution and imprisonment, and cannot tell the truth about any organization, then again the people will re-write the laws; then the people will assert themselves, and if necessary wipe out such infamous laws with their blood. And I want to serve notice now on those people who, in violation of the spirit of THE MENACE article in which it was said, "you cannot rule by force, you cannot refute criticism by violence,"—I want to tell them that there is a limit to the endurance of the American people. No organization that is dealing fairly and squarely, and is upright and just, need fear criticism. You know that the one thing evil hates is publicity. The newspaper is the greatest means of renovating the morals of the nation. ***These defendants have spoken plainly but they have spoken the truth.***

READING SHOULD BE ENCOURAGED

Everyone recognizes that advancement will be best promoted by increasing the army of those who read.

Ignorance and superstition vanish before enlightenment.

The printed book and the newspaper are the instruments that will bring about this transformation.

What humanity requires is the light. It gets light by reading.

Thus we see the importance of the free press everywhere for everybody.

When the people read, then the people will know, and such practices as are described in THE MENACE and in Crowley's book, it will no longer be possible for any organization to countenance.

Fifteen million Bibles of the King James Version are printed

and distributed every year among the people of the earth. These are bringing light and Christianity to the masses of the people.

If those who instigated this prosecution could have their way, every Bible in the world would be burned and the people kept in ignorance.

You remember, do you not, the story of how Benjamin Franklin's father's family did in England in order to preserve their Bible. You remember that the Roman Catholic church decreed, that all Bibles, other than the Catholic Bible, should be destroyed and even these were not allowed to be generally read. Franklin had a Bible, and in order to keep it from being destroyed, they secreted it in a jointed stool. That is, the Bible was placed open under the cover of the stool, and when the old gentleman desired to read to the family, he would turn the cover of the stool back and read from the Bible, while some member of the family stood at the door to watch and see if an officer was coming and warn the family so they could cover the Bible up again.

Those who are instigating this prosecution, would have us return to those days, and return to them we will, if the Roman Catholic Hierarchy can secure the conviction and punishment of these defendants and others like them.

If it comes to pass that these iniquities, which THE MENACE in its columns uncovers, and the gross abuses and abominations, which Father Crowley speaks of in his book, cannot be told to the people in print, without fear of prosecution or imprisonment, the rage of the people will burst out in a tornado, and there will be no peace until these emissaries of a foreign power are compelled to conform themselves and their practices to law and order.

Prosecutions like this are but the beginning of the storm that will bring down about their ears the wrath of an outraged people.

SUPPRESSION NO REMEDY

Do you believe that the charge made here that drunken, lecherous priests seduce Protestant girls that are confided to the Sisters and taken into these schools—do you believe that such a charge as this could last for an hour against Methodist, Baptist or Christian ministers without an investigation? Would Protestants rush out and try to suppress the paper? Wouldn't they want to save the girls—

the morals of these young girls? Wouldn't they want to do that? Wouldn't they be the very ones that would come down here and say to these defendants, "Show us the proof of these things"? Wouldn't they go to Jeremiah J. Crowley and say, "Show us the truth of these things? If you have proof, we want it. We are Christian people, and we want these abuses corrected, and the guilty punished." That is the way this matter should be determined.

Is it possible that such things as THE MENACE charges, and such things as Jeremiah J. Crowley describes in his book, exist right in our vicinity, and in other parts of the country, and no one dare publish the fact, for fear of imprisonment and fine?

Is it true that threats of death shall deter honest, brave men from calling the attention of their fellow-citizens to this danger, which lurks in our very midst? If so, then God give us a race of brave men, men like these defendants, who are not afraid of the disgrace and torture of prison, men who are not afraid to face death for a good cause.

If it is true, as Father Crowley charges in his book, laid before you here, that the majority of all prostitutes come from the Catholic girls and women who have been polluted by the priestly confessors, is it not time that the world knows these things, so that people can be shamed out of going to confessional? If it is true, as Father Crowley charges in his book, laid before you here, that nuns go about soliciting Protestant girls as students in the nunneries and the convent schools, and that then they are debauched and corrupted by priests who are in charge of these nunneries and schools; and if it is true that these priests boast of the ease in which they can seduce Protestant girls in these schools, ought not the world know it? Ought not the people have some knowledge of this so they can take some means to stop such vile streams of corruption? If these charges are not true, what is the remedy which the Roman Catholic church should seek? Surely it is not having the government prosecute for sending obscene matter through the mails; surely it is not in mobbing and killing speakers and writers as they did murder Rev. William Black at Marshall, Texas. This kind of conduct does not come well from an organization that claims to be divinely ordained of God. It is hardly a seemly thing to see Christian gentlemen, followers of Christ, threatening, boycotting, beating and murdering men because these men make charges against those in control of Christ's church.

THE RIGHT WAY

There is a way to remedy these things in a lawful and proper manner, and everyone will say, Amen, to such action. These charges are too serious to be met and stifled by mob violence or prosecution. It requires some other means to stop this cloud of criticism.

These defendants are not the foul, filthy men you see sometimes in court. I think probably you were here at the time when one poor, unfortunate man came into court and pleaded guilty to sending obscene matter through the mails in a letter to a woman. We are tried under the same statute, and it seems that the District Attorney wants to apply the same rule to these gentlemen that was applied to him.

But you men won't give a verdict of that kind. I am confident of it. You are here representing not only the people of this district; you represent all the people of the nation, all the people of America. By your verdict you can say to these people who inspired this prosecution, "Go back home and read the files of THE MENACE you have got, and tear out of them all things that are charged against you, paste them all in a book, get them all together, and then go and round up these men. Find the men who are doing the foul things that Crowley tells of in his book and that THE MENACE tells of and bring them to justice, or prove that the charges are not true." A charge of that kind, made that women are ruined by the thousands, both Catholic and Protestant women! And yet the only answer to it is to try to send Marvin Brown, and Bruce M. Phelps and Wilbur Phelps and Reverend Walker to prison. Is that all the answer there is to it? No, no. Twelve men of Missouri will give them a different answer. You will say to them: "Gentlemen, if you can't stand criticism, get out of business." That is what you will say. "Clean up! Clean house! and then nobody can criticise you." That is what the verdict of this jury will be.

The great educational factor of the world is the public press of the country and it must be kept free. According to the testimony, 1,500,000 copies of this paper go through the mails each week and yet no one believes that it contains obscene or indecent matter except a few Roman Catholics. These Roman Catholics have been watching its columns for years to find something upon which they

could get the paper denied the privilege of the mails or get its editors imprisoned in the penitentiary. Gentlemen, fair play would dictate that you should not tolerate any such conduct as that. Why should the Roman Catholics cry out that these defendants are trying to stir up religious prejudice? Do you call such things as Father Crowley refers to in his book religion? If so, then God deliver us from such religion.

CONTINUATION OF THE INQUISITION

You will keep in mind, gentlemen, the fact that most of the articles, from which little excerpts have been taken upon which to indict the defendants, were first published in other newspapers in full. One of the articles was published in *The Rocky Mountain News* of Denver, Colorado. Another in the Portland, Oregon, *Daily News*. I haven't heard of any Knight of Columbus tearing his hair because these papers published the same foul charges against priests. These defendants re-published the articles in order to call the attention of the people of America to these evils and to show that our free institutions are in danger. If the defendants are to be punished for this then, soon we shall be back to the time of the Inquisition when, under the direction of the Roman Catholic Hierarchy, men's fingers and arms were pulled off and other tortures inflicted upon them because they did not pray as the Roman Catholic church said they should pray. But they cannot do that kind of a thing in this country. This nation was founded upon the right of every man to worship according to the dictates of his own conscience. In our government Church and State are to be forever separated. The Roman Catholic Hierarchy shall not control this government, shall not subject a free press and the right of every man and woman to worship God according to the dictates of their own conscience to the censorship of Roman Catholic priests. Never will any priest be able to tell the people of this nation how they shall pray, or that they shall pray at all, if they do not want to. That time, thank God, will never come. The people of the United States will not stand for it. They may mob or occasionally kill a man, but they cannot suppress free speech and free press; and they cannot answer argument with force. The court will instruct you gentlemen that the test of obscenity is whether the matter alleged to be obscene tends to corrupt

the morals or deprave the minds of those into whose hands it may come that are susceptible to such influence.

UPLIFTING RATHER THAN DEBASING

As my associate has well said, the charges that are made in THE MENACE and in this book have not the tendency to deprave but on the contrary, they tend to uplift mankind—to make men and women better—to make them hate and despise lechery and pollution. It tends to make better citizens. It tends to make them love their country better—it tends to make the people patriotic.

If they can shut this book of Crowley's out of the mails, they can also shut out that old book (putting his hand upon the Bible which lay upon the table), which has been the comfort of the people of all the world since it was written. If they can shut the one out of the mails, they can shut the other out. I did want to read to you some passages from this book, but I am limited in my time for argument and so will refrain from doing so. I sent my daughter, Mary, a copy of the Bible last Christmas when she was away at school. This I sent through the mails. Suppose that Landry Harwood had found out I purchased that Bible and sent it through the mails? And suppose he had gone to the District Attorney—not Francis Wilson, for he would not have countenanced such a thing—but suppose he had gone to a District Attorney who was a Knight of Columbus and said, "This man Sheppard has sent to his daughter through the mails a copy of the King James edition of the Bible and it contains some language that if taken alone and separated from its context, will appear obscene and we can try him and send him to the penitentiary"; and suppose they had procured an indictment against me and brought me for trial before a jury? Would the court have allowed it to proceed? Would not the jury have promptly decided the contention in my favor?

Father Crowley is calling attention to these foul things which he says are taking place. Is his book to be denied the mails? Is the paper that these men are publishing to be denied the mails because in a few instances in four years after scanning several million copies the Knights of Columbus can find a few sentences that, if standing alone, they claim offends against the law? Ah! gentlemen, let me tell you. ***Millions of copies of this paper circulate each year and will continue to do so, and it is going to take more than the***

Knights of Columbus and all the other Roman Catholics to stop it.

PROSECUTION A MATTER OF PREJUDICE

You gentlemen have a serious duty to perform. You must uphold the laws of your country but remember the laws are made to punish the guilty and not the innocent. You should be loyal to your country; you should love our country as you do life itself. But remember that these defendants are not felons but benefactors of the race. They have consecrated their lives to the protection of American institutions against the intrigues of Papal Rome. I know you will not say that these defendants are guilty of filth and vileness. I know that you will say what they have done is highly moral and patriotic. They have been hounded and harrassed for a long time by the enemies of liberty and finally they have been dragged into court. These same enemies of the people's liberties have tried to suppress Father Crowley's book and THE MENACE when the book and the paper was merely telling the truth. An attempt has been made to cast infamy upon these honest men, the defendants, because they have tried to do that which their conscience told them was in the best interest of all the people of this nation. This prosecution was actuated by religious prejudice and not by a sincere desire to preserve and protect the morals of the people. Gentlemen of the jury, your names will go down in history as the twelve men who found a verdict of not guilty when four of their fellow citizens were charged with publishing obscene, lewd, lascivious and filthy matter in their paper when they were only attacking and telling the truth about the Roman Catholic Hierarchy and the politicians of that church. The time will come when your descendents will be proud to say, "Our ancestor was a member of the jury at Joplin that tried THE MENACE editors."

The time allotted me for argument has expired. To conclude, I desire to thank you gentlemen for the patience which you have shown and for the good attention you have given throughout this trail.

In the name of the untold thousands who were put to death during the Spanish Inquisition; in the name of the thousands of innocent people who died on St. Bartholemew's Day in France; in the name of the men and women in the United States who have been persecuted, boycotted, threatened and driven to distraction; in the

name of the patriotic speakers who have been mobbed and beaten; and in the name of the Rev. William Black who was murdered at Marshall, Texas, on the third day of February, 1915, I ask you by your verdict to remove the ban from Father Crowley's book, and let it be freely distributed throughout the country, in the homes of the people, who want to know the truth; I ask in the name of Freedom and Justice, that you say by your verdict to each of these four gentlemen, "Go back to your home and your family, and continue to use your ability and your printing press, to rouse the people of this nation to the great dangers which threaten it from Papal Rome"; and, last of all, I ask you to fearlessly write in your verdict the condemnation of the system which these defendants are so nobly fighting, so that it may be read by liberty-loving people for all time to come.

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